

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, as amended by the Class Action Fairness Act of 2005, and 28 U.S.C. § 1446, defendants Coverall North America, Inc. and Coverall of Boston, Inc. (collectively, “Coverall”) hereby file this Notice of Removal of *Cooks v. Coverall North America, Inc.*, Case No. SUCV2013-02373E, from the Superior Court of Suffolk County, Massachusetts to the United States District Court for the District of Massachusetts.

The Removed Case

The removed case is a civil action filed on July 1, 2013 in the Superior Court of Suffolk County, Massachusetts. Cooks filed the removed case as a proposed class action on behalf of himself and all individuals who have purchased cleaning franchises from Coverall and, since July 1, 2010, have performed cleaning services for Coverall in Massachusetts. Cooks alleges that Coverall has misclassified these franchise owners as independent contractors, instead of employees, in violation of the Massachusetts Independent Contractor Law, Mass. Gen. L. c. 149, § 148B. Cooks alleges that, as a result of this misclassification, Coverall also has violated the

Massachusetts Wage Act, Mass. Gen. L. c. 149, § 148, and the Massachusetts minimum wage and overtime laws, Mass. Gen. L. c. 151, §§ 1, 1A.

Grounds For Removal

1. Coverall received the initial pleading in the removed case, the Complaint (attached as Exhibit A hereto), and a summons on July 9, 2013. Coverall has filed and served this Notice of Removal within 30 days of receipt of the Complaint. This Notice of Removal is thus timely pursuant to 28 U.S.C. § 1446(b)(1).
2. Coverall North America, Inc. is a Delaware corporation that has its principal place of business in Boca Raton, Florida. Coverall of Boston, Inc. is a Delaware corporation that has its principal place of business in Stoneham, Massachusetts. The Complaint names both Coverall companies as primary defendants.
3. Augusta Cooks alleges that he is a resident of Malden, Massachusetts.
4. Cooks has brought the removed case as a class action on behalf of all individuals who have purchased cleaning franchises from Coverall and have performed cleaning services for Coverall in Massachusetts since July 1, 2010. According to Coverall's records, at least 211 Coverall franchises have provided services in Massachusetts since July 1, 2010.
5. Diversity of citizenship for purposes of 28 U.S.C. § 1332(d)(2)(A) exists because the named Plaintiff, Augusta Cooks, is a citizen of Massachusetts and defendant Coverall North America, Inc. is a citizen of Delaware and Florida.
6. Cooks has not quantified the damages he seeks, but he has requested "restitution" of all amounts Coverall has deducted from his franchise revenues plus trebling of all damages.
See Complaint at 7.

7. Since July 1, 2010, Coverall has deducted over \$4.6 million from the franchise revenues of those persons alleged to be members of the putative class. Since Cooks seeks trebling of that amount, the amount in controversy is \$13.8 million, well in excess of the \$5,000,000 statutory threshold. *See* 28 U.S.C. § 1332(d)(2).

8. A class action raising the same claims on behalf of a substantial portion of the putative class in the removed case is pending in this Court, captioned *Awuah v. Coverall North America, Inc.*, Civil Action No. 07-10287. While *Awuah* was initially filed in 2007, the Fourth (and final) Amended Complaint in *Awuah* was filed on July 9, 2010. The *Awuah* Fourth Amended Complaint is attached as Exhibit B hereto. This Court has not entered a final judgment in *Awuah*.

9. Coverall is mailing this date to Cooks's attorneys of record a copy of this Notice of Removal.

10. Coverall is filing this date with the Clerk of the Superior Court for Suffolk County, Massachusetts a copy of this Notice of Removal.

11. Coverall is filing this Notice of Removal subject to and without waiver of any defenses or objections to the Complaint that Coverall may have, including but not limited to its rights to compel members of the putative class to arbitrate.

12. All defendants properly joined and served consent to and join in the removal of this matter.

FOR THESE REASONS, Coverall North America, Inc. and Coverall of Boston, Inc. request that this Notice of Removal be deemed sufficient and that this matter be removed to this

Court.

**COVERALL NORTH AMERICA, INC. and
COVERALL OF BOSTON, INC.,**

By their attorneys,

/s/ Michael D. Vhay
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Dated: July 30, 2013

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for each party by mail on July 30, 2013.

/s/ Michael D. Vhay